

CCRB INVESTIGATIVE RECOMMENDATION

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|--|---|---------------------------|---|------------------------------------|---------------------------------|
| Investigator: Olga Bentin | Team: Squad #4 | CCRB Case #: 201900335 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Friday, 01/11/2019 3:30 PM | Location of Incident: Graham Avenue and Varet Street | Precinct: 90 | 18 Mo. SOL 7/11/2020 | EO SOL 2/25/2021 | |
| Date/Time CV Reported Fri, 01/11/2019 3:38 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 01/11/2019 3:38 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|-----------------------|--------|--------|---------|
| 1. SGT Gregg Minardi | 00608 | 940475 | 090 PCT |
| 2. POM Daniel Manetta | 11047 | 956069 | 090 PCT |
| 3. POM Shane Wynn | 14864 | 956340 | 090 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------|---|-----------------------------|
| A.POM Shane Wynn | Abuse: Police Officer Shane Wynn stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. | |
| B.POM Daniel Manetta | Abuse: Police Officer Daniel Manetta stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. | |
| C.SGT Gregg Minardi | Abuse: Sergeant Gregg Minardi stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. | |
| D.POM Shane Wynn | Abuse: Police Officer Shane Wynn frisked § 87(2)(b) | |
| E.POM Shane Wynn | Abuse: Police Officer Shane Wynn questioned § 87(2)(b) | |
| F.POM Daniel Manetta | Abuse: Police Officer Daniel Manetta questioned § 87(2)(b) | |
| G.SGT Gregg Minardi | Abuse: Sergeant Gregg Minardi questioned § 87(2)(b) | |
| H.SGT Gregg Minardi | Abuse: Sergeant Gregg Minardi frisked § 87(2)(b) | |
| I.SGT Gregg Minardi | Abuse: Sergeant Gregg Minardi searched § 87(2)(b) | |
| J.POM Shane Wynn | Abuse: Police Officer Shane Wynn searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. | |
| K.SGT Gregg Minardi | Abuse: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card. | |
| L.SGT Gregg Minardi | Abuse: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card. | |
| M.POM Daniel Manetta | Abuse: Police Officer Daniel Manetta failed to provide § 87(2)(b) with a business card | |
| N.POM Daniel Manetta | Abuse: Police Officer Daniel Manetta failed to provide § 87(2)(b) with a business card. | |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------|---|-----------------------------|
| O.POM Shane Wynn | Abuse: Police Officer Shane Wynn failed to provide § 87(2)(b) with a business card. | |
| P.POM Shane Wynn | Abuse: Police Officer Shane Wynn failed to provide § 87(2)(b) with a business card. | |

Case Summary

On January 11, 2019, § 87(2)(b) contacted the CCRB by phone and filed this complaint on his own behalf and on behalf of his friend, § 87(2)(b).

On January 11, 2019, at approximately 3:30 p.m., § 87(2)(b) and § 87(2)(b) were pulled over by Sgt. Gregg Minardi, PO Shane Wynn, and PO Daniel Manetta, all from the 90th Precinct, in the vicinity of Graham Avenue, between Varet Street and Moore Street in Brooklyn (**Allegations A, B, and C: Abuse of Authority- Vehicle Stop**, § 87(2)(g)). The officers asked § 87(2)(b) and § 87(2)(b) to exit their vehicle. Afterwards, PO Wynn frisked § 87(2)(b) (**Allegation D: Abuse of Authority- Frisk**, § 87(2)(g)) and asked if he had anything illegal on his person (**Allegation E: Abuse of Authority- Question**, § 87(2)(g)). PO Manetta also asked § 87(2)(b) if he had any marijuana on his person (**Allegation F: Abuse of Authority- Question**, § 87(2)(g)). While PO Wynn and PO Manetta were dealing with § 87(2)(b), Sgt. Minardi asked § 87(2)(b) if he had any weapons or sharp objects on him (**Allegation G: Abuse of Authority- Question**, § 87(2)(g)). Sgt. Minardi then frisked § 87(2)(b) (**Allegation H: Abuse of Authority- Frisk**, § 87(2)(g)) and searched § 87(2)(b) (**Allegation I: Abuse of Authority- Search of Person**, § 87(2)(g)). Afterwards, PO Wynn entered and searched § 87(2)(b)'s vehicle and its trunk (**Allegation J: Abuse of Authority- Vehicle Search**, § 87(2)(g)). At some later point, PO Manetta asked § 87(2)(b) "Is there [referring to the trunk] anything back there we should know about?" (**Subsumed in Allegation F: Abuse of Authority- Question**, § 87(2)(g)). At the conclusion of this incident, Sgt. Minardi, PO Wynn, and PO Manetta did not provide their business cards to § 87(2)(b) and § 87(2)(b) (**Allegations K, L, M, N, O, and P: Abuse of Authority- Failure to Provide RTKA Card**, § 87(2)(g)).

As a result of this incident, § 87(2)(b) and § 87(2)(b) were not arrested or summonsed.

The investigation was provided with three BWC recordings of this incident. Full BWC recordings are located in and can be viewed from Investigative Actions #29, #30, and #31. The relevant video clips are discussed in greater details below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Shane Wynn stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (B) Abuse of Authority: Police Officer Daniel Manetta stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (C) Abuse of Authority: Sergeant Gregg Minardi stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that at approximately 3:30 p.m. on January 11, 2019, PO Shane Wynn, PO Daniel Manetta, and Sgt. Gregg Minardi observed § 87(2)(b) driving with a prohibited frame around his rear license plate. The officers stopped the vehicle, which also contained § 87(2)(b) in the passenger's seat.

§ 87(2)(b) (BR 01) acknowledged having a dealer frame around his rear license plate. He provided a photo of the front license plate frame (BR 03), and confirmed that it was identical to the one on the rear.

PO Wynn's BWC recording (BR 05) begins with him approaching the front driver side of § 87(2)(b)'s car. At the 00:01 minute mark, PO Wynn says to § 87(2)(b) "The reason why I

pulled you over, because you are not allowed to have anything outside of your plate.” § 87(2)(b) replies that he never knew that.

PO Wynn (BR 06), who was the operator, and Sgt. Minardi (BR 07), who was sitting in the front passenger’s seat, both saw the frame around the rear plate. They stated that all plate covers or frames are illegal in New York State. They did not have any other reason, at that time, to stop § 87(2)(b)’s car. PO Manetta (BR 08) did not recall if he saw the rear plate prior to the car stop.

The courts have held that the decision to stop an automobile is reasonable where the officers have probable cause to believe that a traffic violation has occurred, regardless of their intention. People v. Robinson, 97 N.Y. 2d 341 (2001) (BR 04) New York State Vehicle and Traffic Law § 402 (b) (BR 09) states that license plates “shall be kept clean and in a condition so as to be easily readable and shall not be covered by glass or any plastic material.”

§ 87(2)(b), § 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Shane Wynn frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Shane Wynn questioned § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Daniel Manetta questioned § 87(2)(b)

Allegation (G) Abuse of Authority: Sergeant Gregg Minardi questioned § 87(2)(b)

Allegation (H) Abuse of Authority: Sergeant Gregg Minardi frisked § 87(2)(b)

Allegation (I) Abuse of Authority: Sergeant Gregg Minardi searched § 87(2)(b)

Allegation (J) Abuse of Authority: Police Officer Shane Wynn searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Wynn frisked and questioned § 87(2)(b) and searched his vehicle and its trunk. It is also undisputed that PO Manetta questioned § 87(2)(b) while Sgt. Minardi questioned and frisked § 87(2)(b). It is disputed whether Sgt. Minardi searched § 87(2)(b).

§ 87(2)(b) (BR 01) and § 87(2)(b) (BR 02) denied having any weapons in the vehicle or on their persons, or that they consumed any drugs, alcohol, or had any in the vehicle. There were no weapons or drugs in the car’s trunk, aside from camera equipment and firecrackers in the trunk. § 87(2)(b) said that there were no firecrackers anywhere in the passenger area of the vehicle or doors.

§ 87(2)(b) (BR 01) stated that shortly after being pulled over, PO Wynn asked him to step out of the vehicle and he complied. PO Wynn then frisked him, running his hands over § 87(2)(b)’s arms, sides of his torso, and legs. Shortly thereafter, § 87(2)(b) also exited the vehicle, and they both were asked to move to the rear. § 87(2)(b) assumed that Sgt. Minardi patted § 87(2)(b) after he exited, but did not actually see it. § 87(2)(b) then saw PO Wynn enter and search the front and back driver side of his vehicle, and then moved to the passenger side. PO Manetta asked § 87(2)(b) if there was anything illegal in the vehicle. § 87(2)(b) said that he only had camera equipment, because he shoots music videos. When PO Wynn concluded his search of the vehicle, PO Manetta asked § 87(2)(b) for his car keys. § 87(2)(b) asked why, but still complied. PO Manetta then instructed § 87(2)(b) and § 87(2)(b) to go back to their seats, which they did. § 87(2)(b) then looked in his rearview mirror and saw PO Wynn open the trunk of the vehicle. § 87(2)(b) turned to PO Manetta, who was standing by his door, and said,

“Don’t you need a warrant to go through my trunk?” PO Manetta replied that they did not. § 87(2)(b) said that he did not consent to this search, and PO Manetta said that he did not need § 87(2)(b)’s consent. The officers did not recover anything from the vehicle or its trunk.

§ 87(2)(b) (BR 02) provided a generally consistent account with that of § 87(2)(b) and said that when he exited the vehicle, Sgt. Minardi reached in to his front jacket and jeans pockets. At the time, § 87(2)(b) was wearing a black varsity jacket, gray jeans, and black Timberland boots. He had a cell phone in his right front jacket pocket, and his wallet in one of his front jeans pockets. As Sgt. Minardi searched § 87(2)(b) he asked § 87(2)(b) if he had any weapons or sharp objects on him. § 87(2)(b) replied, “No,” and said, “That’s my phone, that’s my wallet, as Sgt. Minardi touched them. Sgt. Minardi did not remove anything from § 87(2)(b)’s pockets.

PO Wynn’s BWC recording (BR 05) begins with him asking § 87(2)(b) to provide his driver’s license, car’s registration, and insurance. § 87(2)(b) complies and provides his documents. At the 00:43 minute mark, PO Wynn asks § 87(2)(b) to exit the vehicle and he complies. At the 00:45 minute mark, PO Wynn asks § 87(2)(b) “Do you have anything on you?” § 87(2)(b) replies, “No, sir.” At the 00:54 minute mark, PO Wynn frisks § 87(2)(b)’s right side pants pocket. The camera does not capture if PO Wynn frisks § 87(2)(b)’s rear pants pockets. At the 1:00 minute mark, PO Wynn tells § 87(2)(b) that he has a “little explosive” in the vehicle, which he cannot have. At the 1:24 minute mark, PO Wynn is standing by front driver side of § 87(2)(b)’s car. The door is opened. The camera captures § 87(2)(b) standing by the front passenger side with his back towards the vehicle. He has his hands raised up to his sides. Sgt. Minardi is standing in front of § 87(2)(b). Sgt. Minardi pats down § 87(2)(b)’s front and rear pants pockets, and then runs his hands down while patting § 87(2)(b)’s legs. At the 1:26 minute mark, § 87(2)(b) turns around facing the vehicle. Sgt. Minardi then frisks § 87(2)(b)’s front pants pockets by squeezing them, and then pats § 87(2)(b) down towards his ankles. At the 1:35 minute mark, § 87(2)(b) walks to the rear of the vehicle. Between 1:42 and 6:11 minutes, PO Wynn searches § 87(2)(b)’s vehicle, by looking in the center console, cup holders, under the driver’s seat, in the pockets of a leather coat that is in the car, in the pocket of the driver’s door, in the pocket of the passenger’s door, under the passenger’s seat, in the glove compartment, in the rear pocket of the passenger’s seat, inside a black metal plastic case laying on the floor of the back seat, and in the rear pocket of the driver’s seat. Between 6:24 and 10:30 minutes, PO Wynn searches the trunk of the car. He looks in a black plastic bag, inside a zippered fabric case, inside of a backpack (opening 4 zippers), inside of a soft fabric case, and moves clothes and other bags around. PO Wynn concludes his search of the trunk and turns his body camera off.

PO Manetta’s BWC recording (BR 11) begins with him standing to the left of PO Wynn, who is standing by front driver side of § 87(2)(b)’s car. At the 00:43 minute mark, PO Wynn asks § 87(2)(b) to step out from the vehicle, and he complies. Upon exiting, § 87(2)(b) lifts both of his hands up in the air. PO Wynn asks § 87(2)(b) something, but it is inaudible. § 87(2)(b) replies, “I am coming from work. I am an § 87(2)(b).” At the 00:50 minute mark, PO Manetta says to § 87(2)(b) “He [referring to PO Wynn] is asking you though if you have any marijuana or anything like that.” § 87(2)(b) says, “No, I am coming from work.” As PO Manetta is speaking to § 87(2)(b) PO Wynn frisks § 87(2)(b)’s pants pockets. At the 1:08 minute mark, PO Manetta asks § 87(2)(b) to walk to the rear of the vehicle, and he complies. At the 5:20 minute mark, PO Manetta asks § 87(2)(b) for his car keys. He gives the keys to PO Manetta and asks him, “Are you going into my trunk?” PO Manetta does not respond. At the 6:18

minute mark, § 87(2)(b) and § 87(2)(b) return in the vehicle. At the 7:00 minute mark, § 87(2)(b) says to PO Manetta, “He is not supposed to go to my trunk without a warrant,” to which PO Manetta replies, “That is not true.” At the 7:15 minute mark, PO Manetta asks § 87(2)(b) “Is there anything back there that we should know about?” § 87(2)(b) tells PO Manetta that he has video equipment in the trunk and says that he did not consent to any of that [referring to the search of the trunk]. PO Manetta interrupts § 87(2)(b) and says, “That’s fine. You do not have to consent.”

Sgt. Minardi’s BWC recording (BR 12) begins with him standing by the front passenger side of § 87(2)(b)’s vehicle. Sgt. Minardi engages in a brief conversation with § 87(2)(b). § 87(2)(b) is standing outside by the front driver side with his back against the vehicle, while facing PO Wynn. § 87(2)(b) is holding both of his hands up in the air. At the 00:01 minute mark, PO Wynn frisks § 87(2)(b) Bryan’s hooded sweatshirt, then his front and rear pants pockets. At the 00:20 minute mark, § 87(2)(b) moves to the rear of his vehicle along with PO Manetta. At the same time, Sgt. Minardi asks § 87(2)(b) to exit the vehicle. He complies. At the 00:29 minute mark, Sgt. Minardi asks § 87(2)(b) “Nothing sharp on you, right?” as he frisks his jacket pockets and moves his hand over § 87(2)(b)’s chest. § 87(2)(b) replies, “No.” At the 00:38 minute mark, Sgt. Minardi asks § 87(2)(b) to turn around, and he complies. Sgt. Minardi then pants down § 87(2)(b) legs, starting from his ankles and moving up to his waist. He then pats down § 87(2)(b)’s back. At the 00:48 minute mark, Sgt. Minardi asks § 87(2)(b) to put his hands down and to walk to the rear of § 87(2)(b)’s vehicle.

PO Wynn (BR 06), PO Manetta (BR 08), and Sgt. Minardi (BR 07) provided generally consistent accounts with the video recordings. They all testified that when they approached § 87(2)(b)’s vehicle, they noticed a “strong odor of marijuana” emanating from the vehicle. They could not indicate if the smell was burnt or unburnt. They all testified to receiving marijuana field test training, and having prior experience dealing with numerous marijuana related arrests and summonses. The officers did not observe any visual signs of § 87(2)(b) and § 87(2)(b) being under the influence of marijuana or intoxicated.

PO Wynn, PO Manetta, and Sgt. Minardi all stated that they did not observe anything on either § 87(2)(b) or § 87(2)(b) or in the vehicle, to suggest that they were armed. Though, PO Wynn noted that he saw a small red object that looked like “a dynamite” – a small red stick with a wick on it – that was in the handle area of the driver’s door. PO Wynn first noticed this before asking § 87(2)(b) to exit the vehicle, and noted that it was illegal to have.

PO Wynn (BR 06) acknowledged frisking § 87(2)(b) citing general safety concern. He did not feel anything on § 87(2)(b) suggestive of a weapon. He also acknowledged searching § 87(2)(b)’s vehicle due to the order of marijuana. He began the search on the front driver’s side, and then searched the front passenger’s side. PO Wynn recovered the aforementioned “dynamite,” which he determined to be a small firecracker. In between the car’s center console and the driver’s seat, on the floor, PO Wynn observed a small quantity of marijuana “crumbs” in the carpet. He did not observe them anywhere else in the vehicle. He did not see anything else in the vehicle suggestive of marijuana use. He was certain that he opened the center console, but was unsure if he opened the glove box. He then searched the passenger and driver’s side of the back seat. PO Wynn confirmed that he searched the entirety of the vehicle’s main cabin. Following this, PO Wynn searched the trunk of the vehicle. He gained access to the trunk with § 87(2)(b)’s key. PO Wynn did not recall opening any bags in the cabin of the vehicle or in the trunk. He did not locate any drugs in the trunk, but did find a plastic bag full of fireworks that he chose not to confiscate.

PO Wynn did not see Sgt. Minardi search § 87(2)(b) during this incident.

PO Manetta (BR 08) did not recall asking § 87(2)(b) if there was anything illegal in his vehicle. He did not see Sgt. Minardi frisk or search § 87(2)(b) nor did he hear if he asked § 87(2)(b) if he had any weapons or sharp objects on him.

Sgt. Minardi (BR 07) acknowledged frisking § 87(2)(b) out of a safety concern, but denied entering his pockets, stating that doing so is dangerous and a “recipe for disaster,” i.e., for being cut by a hidden sharp object. Sgt. Minardi stated that when he was standing beside the front passenger’s side window, he saw some “shakes” – which is loose crumbs or powder of ground marijuana – on the floor of the vehicle. Sgt. Minardi noted that when § 87(2)(b) exited the vehicle, he observed that § 87(2)(b) had baggy pants around his ankles and a bulge in his front waist area. This bulge was weighted down, but Sgt. Minardi could not determine its shape or outline. He did not suspect that it was a weapon. After Sgt. Minardi patted the bulge, it did not feel anything like a firearm or knife.

Officers who conduct routine traffic stops may exercise their discretion to require occupants to exit a vehicle once a lawful stop has been effected, out of concern for safety and without particularized suspicion. People v. Isaac, 107 A.D. 3d 1055 (2013) (BR 10) An officer may ask pointed questions when he has a founded suspicion that criminality is afoot. An officer may frisk an individual if he has reasonable suspicion that the person is armed and dangerous. An officer must have probable cause to search an individual. People v. DeBour 40 N.Y. 2d 210 (1976) (BR 13) The smell of marijuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search an automobile and its occupants. People v. Chestnut, 43 A.D.2d 260 (App. Div. 1974) (BR 14)

§ 87(2)(b), § 87(2)(g)

Allegation (K) Abuse of Authority: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.

Allegation (L) Abuse of Authority: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.

Allegation (M) Abuse of Authority: Police Officer Shane Wynn failed to provide § 87(2)(b) with a business card.

Allegation (N) Abuse of Authority: Police Officer Shane Wynn failed to provide § 87(2)(b) with a business card.

Allegation (O) Abuse of Authority: Police Officer Daniel Manetta failed to provide § 87(2)(b) with a business card.

Allegation (P) Abuse of Authority: Police Officer Daniel Manetta failed to provide § 87(2)(b) with a business card.

It is undisputed that the officers did not provide their business cards to either § 87(2)(b) or § 87(2)(b)

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- § 87(2)(b) [REDACTED]
- PO Shane Wynn has been a member-of-service for five years and has been a subject in five CCRB complaints and 15 allegations, none of which were closed as substantiated.
§ 87(2)(g) [REDACTED]
- PO Daniel Manetta has been a member-of-service for five years and has been a subject of five CCRB complaints and 14 allegations, none of which were closed as substantiated.
§ 87(2)(g) [REDACTED]
- Sgt. Gregg Minardi has been a member-of-service for 13 years and has been a subject to seven CCRB complaints and 20 allegations, none of which were closed as substantiated.
§ 87(2)(g) [REDACTED]
 - 201806785 involves allegations of abuse of authority (frisk and search of a person), and § 87(2)(g), § 87(4-b) [REDACTED] The case is currently pending investigation.
 - 201810683 involves allegations of force and abuse of authority (interference with recording device, and refusal to provide name and shield number). The case is currently pending investigation.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- As of March 18, 2019, no Notice of Claim has been filed regarding this incident (BR 20).
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Squad No.: 4

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date